PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Developers Diversified F Corporation
DOCKET NO.: 05-01832.001-C-3 and 05-01832.002-C-3
PARCEL NO.: SEE BELOW

The parties of record before the Property Tax Appeal Board are Developers Diversified F Corporation, the appellant; by attorney S. Jay Dobbs of Polsinelli, Shalton, Flanigan & Suehterhaus, P.C., St. Louis, Missouri; and the Jefferson County Board of Review, by attorney Christopher E. Sherer, of the State's Attorneys Appellate Prosecutor and Giffin, Winning, Cohen & Bodewes, P.C, Springfield, Illinois.

The subject property consists of a regional shopping mall containing 297,119 gross square feet of building area with 263,305 square feet of leaseable space that is situated on 28.40 acres of land which encompasses two tax parcels. The subject property is also improved with a smaller 5,000 square foot building located on the perimeter of the site. One half of this building is used as a liquor store. The subject property is located in Mt. Vernon, Jefferson County, Illinois. The one–story concrete superstructure was originally built in 1977 and 1978 with several additions and renovations between 1998 and 2000. The mall contains four large anchor stores with 32 smaller in-line retail units accessed within its common open space. The subject property also generates income through a land lease to Broadway Video. The subject has parking for approximately 876 vehicles.

The appellant appeared before the Property Tax Appeal Board arguing that the fair market value of the subject property is not accurately reflected in its assessed valuation. In support of this claim, the appellant submitted an appraisal prepared by Joe Camerer, an Illinois licensed appraiser. Camerer was called as the appellant's expert valuation witness. It was Camerer's first time appraising an enclosed shopping mall. Camerer does hold the professional designation as a Member of the Appraisal Institute. After qualification, Camerer was accepted as an expert valuation

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds *a reduction* in the assessment of the property as established by the **Jefferson** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO.	PARCEL NO.	LAND	IMPRV.	TOTAL
05-01832.001-C-3	06-36-102-009	$ 7,855	$ 76,757	$ 84,612
05-01832.002-C-3	06-36-102-010	$118,621	$2,956,427	$3,075,048

Subject only to the State multiplier as applicable.

witness to provide opinion testimony before the Board without objection.

Using two of the three traditional approaches to value, Camerer estimated a fair market value for the subject property of $8,100,000 as of January 1, 2005. The appraisal was marked as Appellant's Exhibit 1.

The appraiser first provided testimony in connection with the appraisal methodology. Camerer testified he completed an interior and exterior inspection of the subject property and interviewed the mall manager regarding the history of the property, notably occupancy, vacancy, type of tenants, and the physical condition of the improvements. Camerer testified he reviewed the subject's historical income and expenses and performed a national search for comparable sales. The appraiser testified he did not perform the cost approach to value due to the unreliability in calculating accrued depreciation and because the subject is an income producing property.

Camerer indicated the subject property was purchased in August 1993 for $11,190,000. The sale price included a separate parcel with a ground lease to a Wendy's fast food restaurant for $7,500 annually. Based on a capitalization rate of 10%, Camerer opined the leased-fee value of the ground lease was $70,000, resulting in a net sale price for the subject of $11,120,000 in 1993. Camerer testified the purchaser is a nationally traded company who specializes in owning and operating shopping malls. However, the appraiser testified it would be improper to use the subject's 1993 sale price as an indication of value because of the loss of major tenants and multiple in-line stores resulting in higher vacancy, which has substantially reduced the subject's income. Camerer noted the vacancy rate for the smaller in-line stores was approximately 40%.

Under the income approach to value, the appraiser testified he used the actual leases within the subject shopping mall. He first analyzed the four anchor tenants; Sears, JC Penny's, Peebles and Goody's. These properties range in size from 19,200 to 82,682 square feet of building area with their original leases commencing from 1976 to 2005. Lease rates ranged from $2.63 to $3.00 per square foot of building area. Two of the lease rates included escalation clauses based on a set amount of sales volume for a particular year. Camerer testified the Goody's is the most recent lease for $3.00 per square foot and is representative of the market. Camerer also testified Goody's was allowed $270,000 for tenant improvements, which equates to three years of rent.

Camerer next analyzed the actual ground leases for Broadway Video, an automated teller machine (ATM), and Wendy's, which had

leases ranging from $8,000 to $27,772, annually. However, the Wendy's lease income was not included in the gross or net operating income because it is not located on either of the subject parcels. Camerer also included the rents collected from Times Square Liquor, who leases 2,350 square feet of a 5,000 square foot building for $12.50 per square foot.
Camerer indicated the in-line (interior) smaller stores have rental rates ranging from $5.72 to $29.69 per square foot based on location within the mall, with some tenants paying escalations based on sales volume and one property paying only rent based on its percentage of sales volume. Overall, rental rates averaged $10.95 per square foot and $12.14 per square foot including escalations. Camerer next addressed the vacant mall space, which encompassed 37,935 square feet. The published asking rental rate for the vacant in-line stores was $15.00 on a triple net basis with the exception of two larger stores with a triple net lease rate of $8.00 per square foot. The appraiser testified the mall owners are making every attempt to lease the vacant space at market rates, even leasing some stores on a temporary basis for $3.00 to $5.00 per square foot. As a result, Camerer calculated the vacant space has a potential annual income of $445,972.

Based on the aforementioned analysis, Camerer calculated the subject's potential gross income to be $415,638 for the anchor stores, liquor store and ground leases; $521,734 for the occupied in-line stores; and $445,972 for the vacant in-line stores for a total of $1,383,344. Additional income for the percentage rent escalations was $225,908. Triple-net leases required reimbursement for shared expenses that was stabilized at $450,000 based on an actual six year history. Therefore, Camerer calculated the subject property has a potential gross annual income of $2,025,252.

Vacancy and collection loss for the occupied anchors stores was estimated to be 10% or $51,943. A vacancy allowance of 5% or $28,935 was projected for the occupied in-line space while. The large vacant space was estimated to have a loss of $350,000 compared to its actual vacancy loss of $445,972. This difference was offset by temporary leasing. Thus, total vacancy and collection loss was estimated to be $430,878, resulting in an effective gross income of $1,594,374. From 2000 to 2005, the appraiser indicated the subject's effective gross income ranged from $1,569,397 to $1,923,672, with an average of $1,781,025. After deducting the Wendy's ground lease income of $20,307, resulted in a historical average effective income of $1,760,718. However, in the final estimation, the appraiser gave most weight to the subject's historical income amounts in estimating a final effective gross annual income of $1,700,000.

Expenses were estimated to be $630,000 excluding property taxes based on six years of the subject property's actual operating expenses, resulting in a net operating income of $1,070,000. A copy of the subject's actual income and expenses as reported by the appellant from years 2000 to 2005 were contained in the addenda of the appraisal. The appraiser next calculated a capitalization rate for the subject property. The appraiser testified the subject property has become less stable and a more risky investment due to vacancy and the need for roof replacement He employed the band of investments technique and comparable sales to extract a capitalization rate of 10.25%. Adding a property tax load factor of 2.5858%, an overall capitalization rate of 12.8358% was applied to the subject's net operating income of $1,070,000. Thus, the appraiser concluded the subject property has a fair market value of $8,336,060 under the income approach. However, the appraiser deducted $270,000 for the tenant improvement allowance paid by the mall owner to Goody's, resulting in a final value estimate under the income approach of $8,050,000, rounded.

The appraiser next discussed the sales comparison approach to value. The appraiser identified three suggested comparables sales and four sale listings. The sales are located in Kokomo, Indiana; Centralia, Illinois; and Bowling Green, Ohio. The four offerings are located in Alliance, Ohio; Galesburg; Illinois; Laport, Indiana; and Alton, Illinois. The appraiser testified a potential investor of the subject would look across the entire Midwest or nationally to find properties for purchase. He testified the subject's types of property are marketed regionally and nationally.

The three comparables sales were constructed from 1963 to 1987. Comparables 1 and 3 are enclosed shopping malls like the subject and comparable 2 is strip mall. Comparable 2 was renovated in the 1990's. The buildings range in size from 270,502 to 385,000 square feet of building area. Comparables 1 and2 are situated on sites ranging that contain 33 and 37.09 acres with land to building ratios of 3.7:1 and 5.6:1, respectively. The land size for comparable 3 was not disclosed. Comparables 1 and 2 had occupancy rates of 86.3% and 95%, respectively, while comparable 3 was described as well occupied. Community populations ranged from 22,500 to 67,700 with average median incomes ranging from $36,750 to $44,735. The appraisal indicates the buildings are in average or good condition. They sold for prices ranging from $8,250,000 to $10,100,000 or from $21.43 to $37.34 per square foot of gross building area including land. The transactions occurred between July 2004 and November 2005. The appraiser placed most emphasis on comparable sale 1, which sold for $21.43 per square foot of gross building area and $24.17 per square foot of leaseable area.

The four sale listings or offerings range in size from 207,707 to 632,000 square feet of building area and were listed for sale for prices ranging from $4,100,000 to $20,000,000 or from $9.57 to $32.18 per square foot of building area. The comparable listings properties are enclosed malls like the subject. Three were built from 1975 to 1983 and have occupancy rates of 70% to 79%. Other descriptive information for these properties was sparse, if any.

The appraiser considered adjustments to the three comparable sales and listing comparable 1 for differences when compared to the subject. Elements considered in judging the overall similarity and making adjustments for differences to the subject are physical characteristics such as size, age, and condition, as well as community population, median income level, and occupancy. Based on these adjustments, the appraiser concluded the subject property has a market value including land of $32.50 per square foot of leaseable building area or $8,557,413. The appraiser next deducted $270,000 for the tenant improvement allowance paid by the mall owner to Goody's, resulting in a final value estimate under the sales comparison approach of $8,300,000, rounded.

In reconciling the valuation methods, the appraiser placed most weight on the income approach to value with slightly less weight on the sales comparison approach. As a result, the appraiser concluded the subject property has a fair market value of $8,100,000 or $27.26 per square foot of gross building area or $30.76 per square foot of net leaseable area as of January 1, 2005.

Under cross-examination, Camerer testified he has never performed an appraisal of an enclosed shopping mall like the subject, but has appraised strip type shopping centers. Multiple typographical errors or inadvertent omissions were discussed in the text of the appraisal. The appraiser was not sure if Mt. Vernon had one or two hospitals. The appraiser also clarified he used the subject's 2005 assessment information on page 43 of the appraisal.

The appraiser was questioned regarding the subject's highest and best use as described on page 52 of the report. The report indicates that if the subject's site were vacant, the appraiser would expect the site to be developed with a large regional shopping center with a major anchor tenant. The appraiser noted a drawback for redevelopment would be the site's irregular frontage and the improved out-lots owned by other entities. The appraiser would not expect the site to be developed with a mall like the existing structure since this type of use in not feasible. Camerer explained, based on research and consultation with real estate journals, regional malls are no longer being constructed in smaller towns like Mt. Vernon because consumers are using shopping centers more often. The appraiser cited an example of a newly developed shopping center complex on the west side of Interstate 57 in Mt. Vernon, only a short distance from the subject. Camerer explained regional malls are occasionally being constructed in larger metropolitan areas. When questioned if he conducted a highest and best use analysis before the appraisal, Camerer testified as vacant, he did not analyze the potential rents versus the cost to construct feasibility analysis. Camerer testified a detailed analysis was not needed to clearly determine the subject's highest and best use as improved is its current use as a regional mall.

Camerer was next cross-examined regarding the income approach to value. He agreed he used the subject's actual historic rental income in calculating its potential gross income. A $270,000 tenant improvement allowance was discussed. The appraiser testified he deducted the $270,000 tenant allowance from the indicated value under the income approach because in order to secure a new tenant, the mall owners made a concession in the form of the tenant improvement allowance. Camerer testified the allowance was for the tenant to prepare the space for its particular needs. He did not believe the allowance was for roof replacement, but acknowledged the roof was replaced. Camerer testified a tenant improvement allowance is a normal one time expense for a new tenant. He did not believe the tenant allowance should be prorated under the reserves for replacement because it was an immediate expense.

With respect to vacancy, Camerer agreed he did not and should have accounted for the additional 2,350 square feet of building area contained in the Time Square Liquor store that is not leased when calculating the subject's potential gross income. Camerer testified he used the subject's actual vacancy rate from 2005 based on the rent rolls. He further projected an additional 10% vacancy rate for the occupied anchor stores and a 5% vacancy rate for the occupied smaller in-line stores. The actual vacant space within the mall would have a potential income of $446,000, but the appraiser projected a $350,000 vacancy loss due to offsets provided by temporary leases. The appraiser agreed he was essentially projecting 37% vacancy, which is consistent with the subject's historic vacancy rate. Camerer agreed the subject's actual overall vacancy rate averages 14.4%. Camerer did not use comparable leases of like properties to project a market vacancy rate. Camerer also agreed he used actual reimbursement expense amounts paid by tenants and he did not project the reimbursement expenses as 100% paid.

With respect to expenses, Camerer testified he used the subject's actual expense amounts. He agreed he did not specifically demonstrate that the subject's actual expenses are reflective of the market, but believed the subject property is owned by a national company very experienced in managing shopping malls. The appraiser agreed there are resources available to determine market expenses, but it had been the appraiser's experience that historical expenses from the subject are the most reliable. The appraiser testified he did not use a reserve for replacement deduction under the income approach to account for replacing the subject's parking lot, roof and interior common space maintenance, which would have resulted in a lower net operating income and final value conclusion under the income approach.

With regard to the capitalization rate, the appraiser placed most emphasis on the market extraction method with minimal weight on the band of investments method. He placed most weight on comparable sale 2 in arriving at the final capitalization rate of 12.8358%, which included a tax load factor of 2.5858%.

With respect to the sales comparison approach to value, Camerer testified he focused on smaller regional malls outside metropolitan areas in the Midwest that were between 200,000 to 500,000 square feet in size. The appraiser also found listings of mall properties, which were given some minimal consideration as a general market range. The appraiser inspected one comparable sale and one comparable listing. Consistent with the Uniform Standards of Professional Appraisal Practice (USPAP), the appraiser testified he believed with a certain degree of reasonableness all the comparable properties are considered similar to the subject. The appraiser agreed he placed some weight on comparables that he did not inspect in arriving at the final value conclusion.

Under redirect examination, the Camerer testified he has prepared several appraisals of large, multi-tenant shopping centers that share some of the same characteristics as regional malls. He testified the subject's highest and best use is its continued use as a shopping mall as detailed in the appraisal report. Camerer testified he believed the subject's actual historic rents equate to market rents. He agreed there were some typographical errors within the 80 page report, but these errors did not affect the final value conclusion. Camerer clarified under the income approach he applied a 10% vacancy rate to the larger anchor stores and a 37% to 44% vacancy rate for the smaller in-line stores resulting in an overall vacancy rate of approximately 14%. The witness also testified USPAP does not require the appraiser to inspect comparable properties. It was also the appraiser's opinion that the actual rents paid reflect market rents, with support of the most recent leased property, Goody's, which was leased for $3.00 per square foot of building area in 2005.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $3,607,172 was disclosed. The subject's assessment reflects an estimated market value of $10,822,598 using Jefferson County's 2005 three-year medina level of assessments of 33.33%.

The board of review offered valuation evidence prepared by Steven L. Lueker, Supervisor of Assessment for Jefferson County, Illinois. Lueker testified he inspected the interior and exterior of the subject property. He identified Exhibit F, which is an aerial photograph of the subject property. Lueker testified he is not an appraiser nor did he arrive at a final value conclusion for the subject property.

Lueker next discussed a narrative valuation report he prepared regarding the subject property. The narrative valuation report contains four sales of properties that Lueker deemed comparable to the subject property. Lueker testified he inspected and photographed each of the suggested comparables. The witness testified he attempted to establish a value range and believed the subject property's assessed valuation falls within the value range established by the comparable sales.

Comparable sale 1 is located across the street from the subject. Comparable 1 is a multi-tenant strip mall that was built in 1996 and contains 96,355 square feet of leasable building area. The improvements are situated on 12.91 acres. The comparable sold in December 2001 for $6,950,000 or $72.13 per square foot of leaseable building area including land. Lueker recognized and acknowledged the older sale date, but considered its location across the street superior. Lueker also indicated the comparable's access is inferior when compared to the subject.

Comparable sale 2 is a strip mall comprised of three separate buildings totaling 271,815 square feet of building area. The suggested comparable is located in Centralia, Illinois, which is approximately 15 miles from the subject. The buildings were constructed in 1969 and are situated on 37.9 acres. He noted the parking lot was in very poor condition. Lueker indicted the property has poor visibility due to its location on a curved road. This property sold in July 2004 for $9,400,000 or $34.58 per square foot of building area including land. Lueker considered this property overall inferior to the subject by design, access and condition.

Comparables sale 3 is a indoor shopping mall containing 580,000 square feet of building area that is located in Carbondale, Illinois, which is approximately 60 miles from the subject. The building was constructed in 1973 and is situated on 48.58 acres. The suggested comparable sold in November 2004 for $46,700,000 or

$80.52 per square foot of building area including land. Lueker considered this property overall superior to the subject, but believed it would be representative of the economics for southern Illinois.

Comparable sale 4 is a small strip mall containing 15,100 square feet of building area that is located in Effingham, Illinois, which is approximately 65 miles from the subject. The building was constructed in 1999 and is situated on 3.02 acres. The suggested comparable sold in August 2004 for $1,800,000 or $119.21 per square foot of building area including land. Lueker acknowledged the comparable's considerably smaller in size and has inferior access when compared to the subject. Lueker considered this property less desirable than the subject.

Lueker testified the comparables sold for prices ranging from $1,800,000 to $46,700,000 or from $34.58 to $119.21 per square foot of building area including land. The subject's assessment reflects an estimated market value of $10,822,598 or $41.10 per square foot of building area including land. Lueker argued the subject's assessed valuation is not unreasonable based on thee sales.

Under cross-examination, Luker testified he did not attempt to draw a value conclusion for the subject or offer any other alternative value to support the subject's assessment. Lueker agreed his narrative valuation analysis did not follow USPAP standards and he did not attempt to perform the income approach to value. Lueker agreed comparable 1 sold more than three years prior to the subject's January 1, 2005, assessment date; it is considerably smaller in size than the subject; and is 20 years newer in age than the subject. Comparable 3 is almost twice as big as the subject; and is an "upscale mall" unlike the subject; and is clearly superior to the subject. Lueker agreed comparable sale 4 is considerably smaller is size than the subject and is a weak property for comparison purposes. Lueker agreed sale 3, which was also used by the appellant's appraiser, is closest in size and location, but is inferior in condition and access.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds a reduction in the assessment of the subject property is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728

N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden.

In support of the overvaluation claim, the appellant submitted an appraisal and testimony from the appraiser estimating the subject property has a fair market value of $8,100,000 as of January 1, 2005, using the sales comparison and income approaches to value. The board of review submitted limited valuation evidence in narrative form of four suggested comparable sales. The Property Tax Appeal Board gave less weight to the appraiser's final value conclusion as offered by the appellant and three of the four suggested comparables sales submitted by the board of review.

With respect to the appraisal submitted by the appellant, specifically under the income approach to value, the Property Tax Appeal Board finds the appraiser used the subject's actual income and expense information in calculating the final value conclusion. The Property Tax Appeal Board finds the income approach developed by the appraiser lacked support using comparable income and expense derived from the marketplace. It is the capacity for earning income, rather than income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 431 (1970). The Property Tax Appeal Board finds the appellant's appraiser failed to demonstrated the subject's actual income and expenses were reflective of the market and its capacity to earn income. Since the appraiser placed most reliance on the unsupported income approach to value, the Board finds the appraiser's final value conclusion is undermined and was therefore given less weight.

The Property Tax Appeal Board finds this record contains sales information on six suggested comparables sales and listing information on four additional properties. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Property Tax Appeal Board placed diminished weight on the listings contained in the appellant's appraisal. Notwithstanding that the properties had not sold to attempt in establishing a value for the subject property, the Property Tax Appeal Board finds two of the listings are considerably larger in size when compared to the subject. The Property Tax Appeal Board also gave little weight to three sales submitted by the board of review due to their dissimilar age and/or size when compared to the subject.

The Property Tax Appeal Board finds the remaining three comparable sales to be most similar to the subject in terms of use and physical characteristics. One comparable is a common property submitted by both parties, although it a strip mall compared to the subject's enclosed design. Two properties are enclosed shopping malls like the subject. The buildings were constructed from 1963 to 1987 and range in size from 270,502 to 341,375 square feet of gross or leasable building area. They sold from July 2004 to November 2005 for prices ranging from $8,250,000 to $10,100,000 or from $24.17 to $37.34 per square foot of building area including land. The Board finds the common comparable used by both parties sold for $9,400,000 or $34.58 per square foot of building area including land. The evidence further revealed this property is inferior to the subject in terms of condition. The subject's assessment reflects an estimated market value of $10,822,598 or $41.10 per square foot of leasable building area including land, which falls above the range established by the most similar comparable sales contained in this record. After considering adjustment to the comparables for differences when compared to the subject, the Property Tax Appeal Board finds a reduction in the subject's assessment is justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 29, 2008

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.